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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/758,559	01/16/2004	Frank M. Kulick III	96,046	5968

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OFFICE OF COUNSEL, CODE 004
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EXAMINER

BARRY, CHESTER T

ART UNIT	PAPER NUMBER
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1724

DATE MAILED: 12/06/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/758,559

Applicant(s)

KULICK, FRANK M.

Examiner

Chester T. Barry

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 November 2005.
2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-5 and 16 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☒ Claim(s) 1-5 is/are allowed.
6) ☒ Claim(s) 16 is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
10) ☒ The drawing(s) filed on 17 November 2005 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

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New claim 16 is reproduced below.

Claim 16 (New). A method of processing contaminated wastewater delivered to a tank that is internally divided into volumetrically large and small chambers within which the wastewater respectively undergoes biological treatment and membrane filtration, the steps of: withdrawing the wastewater from the large chamber of the tank after undergoing said biological treatment therein so as to then undergo separation into wastewater portions; recycling one of said separated wastewater portions back into the large chamber of the tank after lowering contamination therein outside of the tank; alternatively recycling another of said wastewater portions into the small chamber of the tank to either undergo said membrane filtration therein or disposal thereof by discharge as a waste sludge; and withdrawing the recycled wastewater portion after undergoing said membrane filtration from the small chamber of the tank as a cleansed effluent.

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Claim 16 is rejected under 35 USC Sec. 103(a) as obvious over Tanaka. USP 6007712 describes a method of processing contaminated water 1 delivered to a

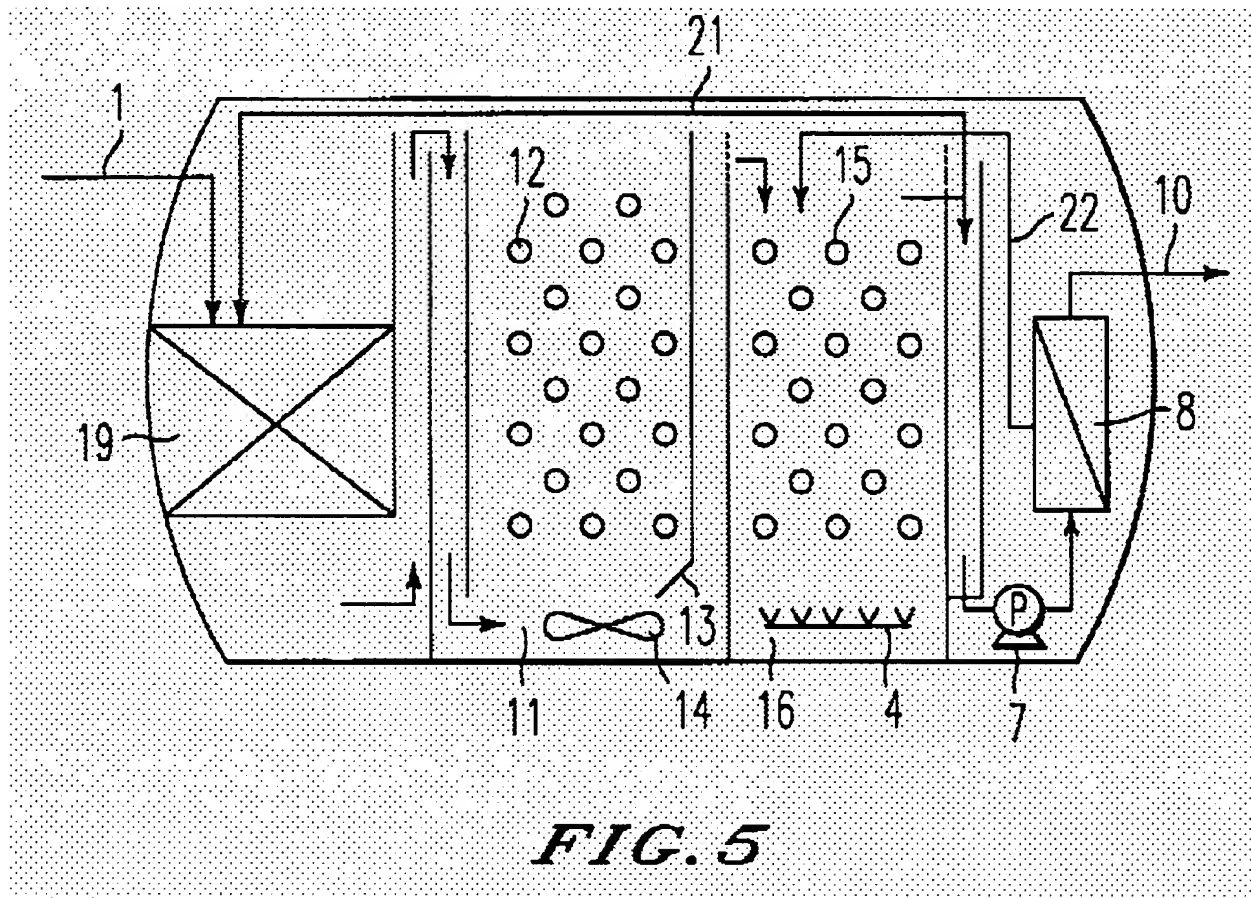


FIG. 5

tank (shown above). The tank is internally divided by a plurality of baffles or weirs. The volumes of first precipitation tank portion 19, denitrification tank 11, and nitrification tank 16 are known, i.e., 0.5 m^3 , 0.2 m^3 , and 0.2 m^3 , respectively, but the volume of the compartment in which membrane filter 8 is located is not disclosed. The reference teaches, however, that a small setting area or "footprint," is desired (col 8 line 55). The reference also teaches that the membrane filter is made of 2 mm ID hollow fibers and 10 m^2 filtration area (col 17 line 67; col 16 line 55). Hollow fibers are generally of a cylindrical shape. Insofar as a small tank footprint is desired, the skilled artisan would

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have been motivated to arrange the membrane filter vertically within the outer compartment of the nitrification tank (as shown above). The resulting volume of the compactly-arranged membrane filter-housing compartment would have been smaller than at least the nitrification tank into which the retained solids portion (retentate) from the membrane-filter is returned via 22. In other words, biosolids are recycled back to the larger nitrification tank from the membrane filter. Clarified filtrate is discharged from the vessel via 10.

Claim 16 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The phrase "alternatively recycling another [waste stream]" is unclear. It is unclear which step is an alternative to recycling said "another" waste stream.

The amendment filed 11/17/05 is objected to under 35 U.S.C. 132(a) because it introduces new matter into the disclosure. 35 U.S.C. 132(a) states that no amendment shall introduce new matter into the disclosure of the invention. The added material which is not supported by the original disclosure is as follows:

1. Use of the term "such as" in the phrase "fluent biomass" at paragraph [0005] which suggests applicants were in possession of use of the invention to process fluent biomass streams other than wastewaters contaminated with solids. Such subject matter is not supported by the original disclosure.

2. Reference to “by means of a control 31” at paragraph [0031] page and now depicted in Fig. suggesting that applicants were in possession of such a “means of a control” when the application was originally filed. The original disclosure does not support this subject matter. The phrase “under selective control” in paragraph [0011] and the mere presence of the rectangle shown near valves 29 and 30 and a few dotted lines does not give rise to support for “by means of a control 31.” The skilled artisan would have understood that “selective control” may be had by dint of human decision-making and manual actuation and not necessarily by dint of a control device or controller of indeterminate structure.

3. Use of the expression “such as” at paragraph [0009] which suggests applicants were in possession of use of the invention on superstructures other than sea vessels. Such subject matter is not supported by the original disclosure.


Applicant is required to cancel the new matter in the reply to this Office Action.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the

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shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.



CHESTERT T. BARRY
PRIMARY EXAMINER

571-272-1152